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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,459	06/22/2005	Dirk Naumann	PC-4198/USA	1400
26282 7590 09/18/2007 INCO PATENTS & LICENSING PARK 80 WEST - PLAZA TWO SADDLE BROOK, NJ 07663			EXAMINER MAI, NGOCLAN THI	
			ART UNIT 1742	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/540,459	Applicant(s) NAUMANN ET AL.	
	Examiner Ngoclan T. Mai	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/22/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/22/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Amendment filed 6/22/05 has been entered, wherein claims 1, 4-10 and 13-14 were amended.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Groups I, claim(s) 1-9, drawn product.

Group II, claim(s) 10-14, drawn to method of making.

3. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: claim 1 is either obvious or anticipated by Miller et al. (US 2001/0001640). Accordingly, the special technical feature linking all inventions such as a component which has at least one porous region, which is formed from an intermetallic phase and at least one areal fluid-tight region, which is formed from corresponding intermetallic phase (see [0030], [0059], [0064]) does not provide a contribution over the prior art, and no single general inventive concept exists. Therefore, restriction is appropriate.

4. During a telephone conversation with applicant's attorney Mr. Edward Steen on September 6, 2007 a provisional election was made with traverse to prosecute the invention of group I, claims 1-9. Affirmation of this election must be made by applicant in replying to

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this Office action. Claims 10-14 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 is indefinite because it is not clear what it means by the phrase "selected from at least one of the four consisting" wherein the listing followed the phrase contains more than four elements.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-2, 4, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al US 2001/0001640).

Regarding claims 1, 2, 4, and 7, Miller et al disclose a component which is produced or processed by powder metallurgy and has at least one porous region, which is formed from an intermetallic phase such as Ti-6Al-4V and at least one areal fluid-tight region, which is formed from a metal, a metal alloy, and the corresponding intermetallic phase. See [0030], [0031], [0061], and [0064].

As for claim 9, Miller et al do not specify the density of the areal, fluid-tight region, Miller et al teach the fluid-tight region is a fully dense, gas impermeable closed porosity coating on the porous region. See [0031]. The examiner submits that the component taught by Miller would have density in the areal, fluid-tight region encompassed that of the claim.

10. Claims 1, 3, 5-7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Beeck et al. (U.S. Patent No. 6,241,469).

Regarding claims 1, 7 and 8, Beeck et al teach a component which is produced or processed by powder metallurgy having a porous region formed from an intermetallic phase and at least one areal fluid-tight region formed from a metal, wherein the at least one passage or aperture is formed in the areal fluid-tight region. See col. 2, lines 22-30, and col. 4, lines 21-23.

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Regarding claim 3, the porous region surrounds the fluid-tight region. See col. 5, lines 1-6. As for claim 5, the porous region is formed from nickel aluminide. See col. 2, lines 36-46. And as for claim 6, Beeck et al teach the porous region can be constructed with porosity decrease in the direction of the areal fluid-tight region. See col. 5, lines 6-12.

11. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Haack et al. (US 2002/0104405).

Regarding claims 1, 4 and 7, Haack et al disclose a component which is produced or processed by powder metallurgy and has at least one porous region, which is formed from an intermetallic phase or solid solutions or has a surface coating of this type, and at least one areal fluid-tight region, which is formed from a metal, a metal alloy, and the corresponding intermetallic phase or solid solution. See col. 2, lines 14-29, col. 3, lines 36-42 and example 3.

As for claims 2 and 3, Haack et al teach the fluid-tight region forms part of the outer shell of the component or is surrounded by the porous region. See col. 4, lines 53-59.

12. Claims 1-2, 4-5, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Dewivedi (U.S. Patent No. 6,759,004).

Regarding claims 1, 2, 4, 5 and 7, Dewivedi discloses a component which is produced or processed by powder metallurgy and has at least one porous region, which is formed from an intermetallic phase, and at least one areal fluid-tight region, which is formed from a metal, a metal alloy, and the corresponding intermetallic phase. See col. 4, lines 1-5 and col. 5, lines 6-24.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoclan T. Mai whose telephone number is (571) 272-1246. The examiner can normally be reached on 9:30-6:00 PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

n.m.


ROY KING
SUPERVISORY PATENT EXAMINER
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